In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.5597 of 2006.

Date of decision:26.10.2006.

Imperial Resin Corporation.

...Petitioner.

Versus

Sood Industries.

...Respondent.

...

Coram: Hon'ble Mr. Justice S.N.Aggarwal.

...

Present: Mr.R.C.Dimri Advocate for the petitioner.

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Judgment.

S. N. Aggarwal, J.

The petitioner is the plaintiff in the learned trial Court. He has filed the suit for the recovery of Rs.5,63,098.54P.

The respondent filed the written statement and set up a counter claim for the recovery of Rs.24,671.77P. However, he had to pay an amount of Rs.1,50,000/- to the petitioner and thereafter he filed an application for amendment so as to add Rs.1,50,000/- in the counter claim besides an amount of Rs.24,671.77P already claimed in the counter claim. This application filed by the respondent was accepted by the learned trial Court vide order dated 18.2.2006.

Hence, the present petition.

The learned counsel for the petitioner submitted that the counter claim could be filed only if it had arisen prior to the filing of the written statement. It was submitted that since the counter claim for Rs.1,50,000/- had allegedly arisen after the filing of the written statement, therefore, the learned trial Court should not have allowed the respondent to amend the written statement.

This submission has been considered. The facts of the present case are peculiar. The respondent had filed written statement and thereafter he had to make payment of Rs.1,50,000/-. Therefore, he wants to include that amount in the counter claim. Moreover, the learned Lower Court has exercised its judicial discretion. The petitioner can take any legal objection available to him in the replication. This Court does not find any reason for disturbing the order passed by the learned trial Court in exercise of its judicial discretion.

No merit.

Dismissed.

October 26,2006. (S. N. Aggarwal)
Jaggi Judge